

## JONES DAY

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MEMO ENDORSED

May 9, 2023

CM/ECF

Hon. Andrew L. Carter Jr.  
United States District Court  
Southern District of New York  
40 Foley Square, Room 435  
New York, NY 10007

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 5/9/2023

Re: *Gail Washbush v. International Business Machines Corp.*,  
No. 23-CV-03013

Dear Judge Carter:

I am writing on behalf of Respondent International Business Machines Corporation (“IBM”) to request leave to provisionally file a public, redacted version of its Opposition to Petitioner’s Motion to Vacate (ECF No. 3) (due May 11, 2023), as well as a sealed, unredacted version for the Court. IBM also requests leave to defer briefing regarding the propriety of the sealing of the redacted portions of the vacatur briefing until such briefing is complete.

IBM recognizes that Your Honor typically requires parties to file proposed sealed documents contemporaneously with their motions to seal. (Individual Practices, Rule 6(C)(ii).) But in the interest of judicial efficiency, IBM asks the Court to provisionally seal the vacatur briefing record in advance, and allow the parties to brief the sealing issues after the vacatur briefing is complete.

This case stems from an arbitrator’s dismissal of Petitioner’s federal age-discrimination claim as untimely. IBM’s position is that, under the parties’ agreement, references to the arbitration proceeding and award must be sealed. With that in mind, on April 10, 2023, Petitioner moved to provisionally seal unredacted versions of her Petition and Motion to Vacate, along with the attached exhibits. (ECF No. 4.) She also noted that “[t]he parties dispute whether these materials should ultimately be filed as a matter of public record or sealed based on the confidentiality provision in IBM’s arbitration agreement.” (*Id.* at 1.) IBM intends to oppose this position and file briefing in support of its view that documents related to the arbitration proceeding should remain sealed.

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To avoid three rounds of briefing addressing each of the parties' briefs and exhibits and whether they should be sealed, IBM requests that the Court provisionally seal the vacatur briefing record but require that redacted versions be publicly filed. Petitioner would not need to file another motion to provisionally seal her anticipated reply brief in support of her vacatur motion. Instead, after Petitioner's vacatur motion is fully briefed, the parties would brief the sealing issue. Petitioner consents to this request, and the parties will confer on a briefing schedule and submit it for the Court's consideration if Your Honor agrees to defer the sealing briefing until after merits briefing is complete.

If this request meets Your Honor's approval, IBM provided a "So Ordered" line below for the Court's convenience. Thank you for your time and consideration.

Respectfully submitted,

/s/ Matthew W. Lampe

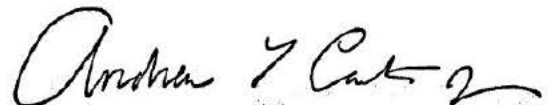
cc: Shannon Liss-Riordan

Matthew W. Lampe

The Respondent's request is hereby **GRANTED**. The parties are **ORDERED** to submit a proposed briefing schedule as to the sealing issue on or by **May 12, 2023**.

IT IS SO ORDERED.

DATED: May 9, 2023



Hon. Andrew L. Carter Jr.  
United States District Judge